

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 59 be amended to read as follows:

- 1 Page 12, between lines 41 and 42, begin a new paragraph and insert:
2 "SECTION 12. IC 33-4-7-12 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) **Except as**
4 **provided in subsection (b),** a magistrate may:
5 (1) participate in the public employees' retirement fund as
6 provided in IC 5-10.3; or
7 (2) elect to remain in the judges' retirement system under
8 IC 33-13 if the magistrate had previously participated in the
9 system.
10 (b) **A person who:**
11 (1) **is serving as a full-time magistrate on July 1, 2002, and**
12 **makes an election under IC 33-13-10.1-3.5; or**
13 (2) **begins serving as a full-time magistrate after June 30,**
14 **2002;**
15 **shall, beginning January 1, 2003, participate in the judges' 1985**
16 **benefit system under IC 33-13-10.1.**
17 SECTION 13. IC 33-13-8-2 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. The following words
19 and phrases as used in this chapter, unless different meanings are
20 plainly indicated by their context, shall have the following respective
21 meanings:
22 "Americans with Disabilities Act" refers to the Americans with
23 Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and
24 regulations related to the Act.

1 "His" and "widow" means "her" and "widower" in the event the
2 participant is a woman.

3 "Fund" means the Indiana judges' retirement fund, the fund created
4 by this chapter.

5 "Board" means the board of trustees of the public employees'
6 retirement fund.

7 "Employer" means the state of Indiana.

8 "Judge" means any person who has served, is serving, or shall serve
9 as a regular judge of any of the following courts:

10 Supreme court of the state of Indiana.

11 Court of appeals of the state of Indiana.

12 Circuit court of any judicial circuit.

13 Superior court of any county or counties.

14 Criminal court of any county having a separate criminal court.

15 Probate court of any county having a separate probate court.

16 Juvenile court of any county having a separate juvenile court.

17 Municipal court of any county.

18 County court of any county or counties.

19 "Participant" means any judge participating in the fund, **or**
20 **beginning January 1, 2003, any judge or full-time magistrate**
21 **participating in the fund.**

22 "Services" means the period beginning on the first day upon which
23 any person first became a judge, whether such date is prior or
24 subsequent to March 11, 1953, and ending on the date under
25 consideration, including all intervening employment as a judge,
26 following resignation or expiration of any term of election or
27 appointment. Services in any fraction of a month shall be considered
28 as a month of service. However, no more than one (1) month shall be
29 credited for services in any one (1) calendar month. If a judge is elected
30 or appointed and serves one (1) or more terms or part of a term, then
31 retires from office, but at a later period, or periods, is appointed or
32 elected and serves as judge, the judge shall pay into said fund during
33 all the periods served as judge, except as otherwise provided in this
34 chapter, whether said periods be a connected period or disconnected
35 period, but shall not be required to pay into said fund at any time when
36 the judge is not serving as judge, or during any period of service as a
37 senior judge under IC 33-4-8, except as otherwise provided in this
38 chapter.

39 "Fiscal year" means the period beginning on July 1, in any year, and
40 ending on June 30 of the succeeding year.

41 "Salary" means the total salary paid to any participant by the state
42 of Indiana and by a county or counties, determined without regard to
43 any salary reduction agreement established under Section 125 of the
44 Internal Revenue Code.".

45 Page 16, between lines 33 and 34, begin a new paragraph and insert:
46 "SECTION 16. IC 33-13-10.1-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. This chapter applies only to an individual who:

- (1) begins service as a judge after August 31, 1985;
- (2) **is serving as a full-time magistrate on July 1, 2002, and makes an election under section 3.5 of this chapter; or**
- (3) **begins service as a full-time magistrate after July 1, 2002.**

SECTION 17. IC 33-13-10.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) Each person who:

- (1) begins service as a judge after August 31, 1985; and
- (2) is then not a participant;

shall become a participant in the fund.

(b) **An individual who is serving as a full-time magistrate on July 1, 2002, and makes an election under section 3.5 of this chapter is, beginning January 1, 2003, a participant in the judges' 1985 benefit system under this chapter.**

(c) **An individual who begins serving as a full-time magistrate after July 1, 2002, is a participant in the judges' 1985 benefit system beginning on the later of the following:**

- (1) **January 1, 2003.**
- (2) **The date the individual begins service as a full-time magistrate.**

SECTION 18. IC 33-13-10.1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3.5. **A person who is serving as a full-time magistrate on July 1, 2002, may elect to become a member of the judges' 1985 benefit system under this chapter. An election under this section:**

- (1) **must be made in writing;**
- (2) **must be filed with the PERF board, on a form prescribed by the board, before October 1, 2002; and**
- (3) **is irrevocable.**

SECTION 19. IC 33-13-10.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. Any participant who:

- (1) ceases service:
 - (A) **as a judge; or**
 - (B) **after December 31, 2002, as a judge or a full-time magistrate;**

other than by death or disability; and

- (2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from **the** date of withdrawal application or in such monthly installments as the participant may elect.

SECTION 20. IC 33-13-10.1-6, AS AMENDED BY P.L.194-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. Any participant whose employment as a judge, or after December 31, 2002, as a judge or a full-time magistrate, is terminated is entitled to a retirement benefit computed under section 7 of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met:

(1) The date upon which the benefit begins is not before the date of final termination of employment of the participant or the date thirty (30) days before the receipt of the application by the board.

(2) The participant:

(A) has attained at least the age of sixty-two (62) and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving any salary from the state for services currently performed, except for services rendered in the capacity of judge pro tempore or senior judge."

Page 16, line 37, after "is" insert ":

(A)".

Page 16, line 37, after "judge" insert "; or

(B) after December 31, 2002, a judge or a full-time magistrate;".

Page 16, line 37, beginning with "participating" begin a new line block indented.

Page 16, line 38, after "becoming" insert ":

(A)".

Page 16, line 38, after "judge" insert "; or

(B) after December 31, 2002, a judge or a full-time magistrate;".

Page 16, line 38, beginning with "was" begin a new line block indented.

Page 17, line 4, after "1" insert "or 3".

Page 17, line 5, after "judge" insert ", or after December 31, 2002, the judge or the full-time magistrate,".

Page 17, line 13, after "judge" insert "or the full-time magistrate".

Page 17, line 15, after "amount the judge" insert "or the full-time magistrate".

Page 17, line 15, after "if the judge" insert "or the full-time magistrate".

Page 19, line 3, after "is" insert ":

(A)".

Page 19, line 3, after "judge" insert "; or

(B) after December 31, 2002, a judge or a full-time

- 1 **magistrate;"**.
- 2 Page 19, line 3, beginning with "participating" begin a new line
- 3 block indented.
- 4 Page 19, line 4, after "becoming" insert ":
- 5 **(A)"**.
- 6 Page 19, line 4, after "judge" insert "; **or**
- 7 **(B) after December 31, 2002, a judge or a full-time**
- 8 **magistrate;"**.
- 9 Page 19, line 4, beginning with "was" begin a new line block
- 10 indented.
- 11 Page 19, line 20, after "judge" insert "**or the full-time magistrate"**.
- 12 Renumber all SECTIONS consecutively.
(Reference is to ESB 59 as printed February 22, 2002.)

Representative Cochran